

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DURAVEST, INC.,

Plaintiff,

v.

VISCARDI, A.G., WOLLMUTH MAHER
& DEUTSCH, LLP, MASON H. DRAKE,
ESQ., BRUCE O'DONNELL, CPA,
BRUCE O'DONNELL CPA/PFS, P.A.,
BIOMEDICAL CONSULTANTS SL,
RICHARD MARKOLL, and ERNESTINE
BINDER MARKOLL,

Defendants.

Civil Action No. 07 Civ. 10590 (JSR)

**NOTICE OF MOTION TO DISMISS OF
DEFENDANTS BIOMEDICAL
CONSULTANTS SL, RICHARD
MARKOLL, and ERNESTINE
BINDER MARKOLL**

TO: All Counsel of Record:

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law and the accompanying Declarations of Richard Markoll, Ernestine Binder Markoll and Peter J. Pizzi, and the exhibits annexed thereto, defendants Biomedical Consultants SL, Richard Markoll, and Ernestine Binder Markoll, by and through their counsel of record, Connell Foley LLP, respectfully move this Court pursuant to Rules 9(b), 12(b)(6) and 12(e) of the Federal Rules of Civil Procedure for an order dismissing all claims against them in the Complaint filed November 26, 2007.

PLEASE TAKE FURTHER NOTICE that the schedule for this motion is as follows:

Filing Date: September 2, 2008;

Opposition: September 15, 2008;

Reply: September 22, 2008; and

Argument Date: September 23, 2008 at 11:00 am.

DATED: September 2, 2008

Respectfully yours,
CONNELL FOLEY LLP

By: /s/ Peter J. Pizzi
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Attorneys for defendants Biomedical
Consultants SL, Richard Markoll, and
Ernestine Binder Markoll

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CERTIFICATE OF SERVICE

I certify that I have this 2ND day of September 2008 served the foregoing Notice of Motion to Dismiss, Memorandum Of Law In Support Of Motion To Dismiss, and Declarations of Richard Markoll, Ernestine Binder Markoll and Peter J. Pizzi, and the exhibits annexed thereto, upon all parties by causing true and correct copies to be delivered to all counsel of record by the Court's ECF system.

/s/ Peter J. Pizzi

Peter J. Pizzi